AMERICA'S ESSENTIAL HOSPITALS

December 8, 2023

The Honorable Mike Johnson
Speaker of the House
United States House of Representatives
418 Cannon House Office Building
Washington, DC 20515

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Hakeem Jeffries
House Minority Leader
United States House of Representatives
2433 Rayburn House Office Building
Washington, DC 20515

The Honorable Mitchell McConnell
Senate Republican Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Dear Speaker Johnson, Leader Jeffries, Leader Schumer, and Leader McConnell:

On behalf of our more than 300 public and nonprofit hospitals and health systems, America's Essential Hospitals looks forward to continuing to work with you this Congress before you recess to improve public health and ensure access to equitable, high-quality care for all, including those who face financial and social barriers to care.

Essential hospitals are distinguished by their unwavering commitment to their mission. They serve communities where 14.6 million individuals live below the poverty line and nearly 9.5 million have no health insurance. Their reach also extends well beyond care for marginalized patients, as they operate nearly a third of the nation's level I trauma centers and 44.6 percent of burn care beds, and they train nearly three times more physicians than other U.S. teaching hospitals.[1]

Our hospitals rely on federal support to meet their safety net mission and the financial challenges that come with it. They provide a disproportionate share of the nation's uncompensated care, operating on margins about 60 percent lower than other U.S. hospitals.[2] Three-quarters of these hospitals' patients are uninsured or covered by Medicaid or Medicare, and nearly 1 in 10 patients are eligible for both Medicaid and Medicare.[3] Commercial insurance covers just 1 in 5 inpatient discharges and 1 in 4 outpatient visits at essential hospitals.

The nation relies on essential hospitals, especially during times of crisis. These hospitals serve on the front lines of fires, floods, hurricanes, and other natural disasters. They lead the

[1] Taylor J, Ramiah K, Greig M, et al. *Essential Data 2023: Our Hospitals, Our Patients—Results of America's Essential Hospitals 2021 Annual Member Characteristics Survey*. America's Essential Hospitals. October, 2023. essentialdata.info. Accessed November 30, 2023.
[2] Ibid.
[3] Ibid.

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response to human-caused tragedies, as well, including acts of mass violence and the ongoing opioid epidemic. The people and communities our hospitals care for and employ deserve support from lawmakers, and we respectfully ask you to prioritize the following legislative recommendations before this Congress convenes to ensure essential hospitals can continue and improve upon their critical work to safeguard public health.

Protect the Medicaid DSH Program

Medicaid disproportionate share hospital (DSH) payments are a critical lifeline for essential hospitals; in fact, without Medicaid DSH payments, the average essential hospital would operate in the red.[4]

Unless Congress acts soon, the Medicaid DSH program will face an unprecedented and devastating $8 billion cut on January 19, 2024—fully two-thirds of all federal Medicaid DSH funding. Our hospitals and the communities they serve cannot sustain a cut of this magnitude. As noted earlier, essential hospitals serve a disparate number of low-income patients—those more likely to be uninsured or Medicaid enrollees—and shoulder a disproportionate share of unreimbursed and under-reimbursed care while operating on extremely thin financial margins.

Congress has acted more than a dozen times on a bipartisan basis over the past 10 years to stop Medicaid DSH cuts. Lawmakers know the devastation a cut of this magnitude would have on disadvantaged patients and the hospitals that care for them. In fact, during this Congress, both the House Committee on Energy and Commerce and the Senate Committee on Finance have advanced legislative language to eliminate $16 billion of Medicaid DSH cuts in fiscal years (FYs) 2024 and 2025. America's Essential Hospitals appreciates the strong precedent of bipartisan support for stopping Medicaid DSH cuts. We urge Congress to follow the lead of the Energy and Commerce and Finance committees to act swiftly, during this current session of Congress, to preserve this vital safety net support and eliminate the DSH reductions for FYs 2024 and 2025. Specifically, we urge you to bring to a floor vote the bipartisan Supporting Safety Net Hospitals Act (H.R. 2665) and the Better Mental Health, Lower-Cost Drugs, and Extenders Act, which recently passed out of the Finance Committee.

Establish an Essential Hospital Designation

Despite the integral and distinguishing role essential hospitals play in providing safety net care in communities nationwide, there is no federal definition for them. **We urge lawmakers to establish a statutory definition of essential hospitals.**

Essential hospitals are distinguished by the diverse patients they treat, serving high proportions of Medicaid, Medicare, and uninsured patients and those from racial and ethnic minorities. Due to their payer mix, they provide a much higher share of uncompensated care than the average hospital. In addition to being a vital safety net provider, essential hospitals serve other key, community-wide roles. They:

- Provide specialized, lifesaving services, such as level I trauma and neonatal intensive care, emergency psychiatric services, and burn treatment.
- Train the next generation of health care professionals to ensure the community's supply of doctors, nurses, and other caregivers meets demand.
- Deliver comprehensive, coordinated care across large ambulatory networks to bring services to where patients live and work.

[4] Ibid.

- Meet public health needs by improving population health and preparing for and responding to natural disasters, public health emergencies, and other crises.
- Advance health equity to meet the needs and challenges of patient populations that face the greatest health disparities and barriers to care.

In the past, Congress has acted multiple times to establish classes of hospitals with distinctive characteristics or that serve specific populations or regions—for example, Prospective Payment System–Exempt Cancer Hospitals, sole community hospitals, Critical Access Hospitals, and, most recently, Rural Emergency Hospitals. In each case, policymakers recognized the need to formally codify defining criteria and policy incentives to stabilize and protect these important providers within the larger health care ecosystem. Today, essential hospitals lack similar—and necessary—benefits and protections.

An essential hospital designation would supply lawmakers with an effective tool to better tailor public policy initiatives and stabilize the health care safety net with targeted funding.

Support the Essential Hospital Workforce

The health care workforce has experienced critical shortages for years—shortages that have been well documented and highlighted by members of Congress on both sides of the aisle. Those shortages, coupled with severe financial challenges faced by essential hospitals and other safety net providers, threaten our communities' access to critical health care services.

Extreme burnout and other mental health impacts from the COVID-19 public health emergency (PHE) remain in its wake. This has forced essential hospitals to continue expending significant resources to recruit and retain medical staff, a costly undertaking in the already competitive labor marketplace. Due to understaffing, essential hospitals are experiencing increased costs associated with hiring bonuses, retention bonuses, and higher salaries to recruit and retain front-line nurses, who are in short supply.

Staffing challenges at essential hospitals are exacerbated by unsustainable increases in hospital admissions associated with respiratory conditions beyond COVID-19, with intensive care units consistently approaching or exceeding capacity. Shortages of health care staff, particularly nurses, and the greater costs associated with hiring and retaining practitioners worsen the financial stress on our member hospitals.

Essential hospitals are dedicated to training the next generation of health care professionals. About 8 in 10 essential hospitals are teaching institutions.[5] On average, essential hospitals train nearly three times as many physicians as other U.S. teaching hospitals. Our members also trained 32 percent more physicians beyond their federal funding cap than other U.S. teaching hospitals.[6] Further, essential hospitals train nearly 10 percent of allied health professionals who receive training in an acute-care facility, including medical technologists, occupational and physical therapists, radiographers, and speech-language pathologists.

A multifaceted approach is necessary to both support and retain the current health care workforce while expanding the pipeline for future clinicians and staff. **Legislative efforts to support the essential hospital workforce should:**

[5] Ibid.
[6] Centers for Medicare & Medicaid Services. Healthcare Cost Report Information System, Hospital 2552-10 Cost Report Data Files FY2020. 2022.

- Sustain a diverse, inclusive, and cohesive health care workforce.
- Address health disparities and ensure quality care and patient safety.
- Ensure health care workers are safe from violence and intimidation in the workplace.
    - **We encourage congressional leadership to bring to a floor vote the SAVE Act (S. 2768/H.R. 2584) and the Resident Physician Shortage Reduction Act of 2023 (H.R. 2389)**
- Create and financially support more training and residency slots for allied health professionals, nurses, and physicians to meet the changing demands of the health care system. Additional slots should be targeted to meet the needs of underserved communities.
- Provide adequate support and resources to maintain the well-being of professional health care workers.
- Provide flexible and sufficient resources to meet increased staffing needs during public health emergencies, natural disasters, and periods of civil unrest.
- Create immigration policies that allow a clear and easy path for qualified foreign nationals with medical and clinical backgrounds who wish to work, train, or study in the United States. This is a critical way to help close the provider shortage gap and provide culturally appropriate care to diverse communities, especially during periods of increased staffing needs.

Support Providers Serving Many Dually Eligible Beneficiaries

We call on lawmakers to refine current law to address negative consequences for safety net providers under the Medicaid DSH program, specific to dually eligible enrollees.

Section 203 of Title II, Division CC, of the Consolidated Appropriations Act, 2021 (Section 203) changed the calculation of the Medicaid shortfall portion of the limit on DSH payments, prohibiting states from compensating hospitals for losses associated with patients dually eligible for Medicaid and Medicare. Under prior law, Medicaid shortfall had included the costs and revenues associated with dually eligible patients (patients dually eligible for Medicaid and another third-party payer, including Medicare and commercial insurance). Under Section 203, only the costs of patients for whom Medicaid is the primary payer are allowed. An exception to this rule is provided for a narrow set of hospitals that have a high number or percentage of low-income Medicare patients, but the Centers for Medicare & Medicaid Services (CMS) has indicated it does not currently have the data to determine which hospitals qualify for the exception. Further, this policy created an arbitrary threshold that leaves behind many public and nonprofit hospitals serving a safety net role and creates year-over-year uncertainty, should a hospital's payer mix change.

The exclusion of dual eligibles' care costs has caused significant hardship and substantial DSH cuts for hospitals with many Medicare dually eligible enrollees. For many hospitals, Medicare and Medicaid reimbursements are well below the cost of caring for these highly complex patients. In addition, some hospitals, particularly those with level I trauma centers, have a high number of patients covered only by no-fault or worker's compensation insurance, which also often does not cover the full cost of care. These institutions are vital to their communities and will not be able to sustain the level of cuts caused by Section 203, which range from several million to tens of millions of dollars.

It is important that lawmakers ensure providers that care for complex patients have the resources they need to provide access to the high-quality care these patients need and deserve.

We urge lawmakers to pass narrow, targeted legislation to allow hospitals that experience losses due to Section 203 from Medicare dual eligibles and from individuals dually covered by an "applicable plan" to include those losses in their DSH cap. An "applicable plan" is a term used in the Medicare Secondary Payer program and defined as liability insurance (including self-insurance), no-fault insurance, or workers' compensation laws or plans. The proposal would exclude all losses from commercial insurance. It also would require a single, aggregated calculation of the combined losses from Medicare and applicable plan duals rather than independent calculations for each.

The proposal eliminates the need for an exception, thereby addressing the operational challenge of identifying the hospitals qualifying for the exception. Nonetheless, it maintains the goal of the exception, which recognizes the hardship that could be imposed on hospitals serving low-income, dually eligible populations. It would not impact any hospital that benefited from the policy change adopted in Section 203. Moreover, the proposal should have little, if any, impact on federal expenditures, as Medicaid DSH expenditures already are capped at the state level.

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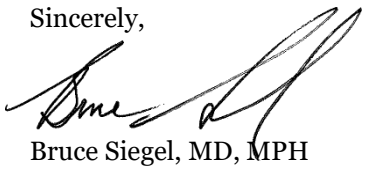
America's Essential Hospitals appreciates the opportunity to provide these comments. If you have questions, please contact Jason Pray, vice president of legislative affairs, at 202.412.2491 or jpray@essentialhospitals.org.

Sincerely,



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